IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 6005 of 2005

Between:

P.Yadagiri, S/o. Sommaiah, Secretary,
C/o. Vyasa Gurukula Vidyalayam, Jangaon-506 167,

Warangal District.

..... PETITIONER

AND

The Recovery Officer, Employee's Provident Fund,

APSFC Building, Balasamudram, Hanamkonda,
Warangal-506 001.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue appropriate writ, order or direction more particularly one in the nature of writ of Certiorari and quash the proceedings No.AP/WGL/Recy/23081/ WGL/2005/71-316 dated 1-3-2005 in pursuance of certificate No.21/2001 dated 6-4-2001 and No.197/2002 dated 30-4-2002 as illegal, ultra vires the provisions of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952, and violative of Articles 14, 19(1)(d) and 21 of Constitution of India.

Counsel for the Petitioner: MR.P.BALAJI VARMA

Counsel for the Respondent : MR.R.N.REDDY, Standing Counsel for Provident Fund.

The Court at the admission stage made the following :

ORDER:

This writ petition is filed questioning the notice dated 01.03.2005 issued by the respondent-Recovery Officer (EPF), calling upon the petitioner to appear before the respondent and to show cause as to why he should not be committed to the civil prison in execution of the recovery certificate Nos.21 of 2001 and 197 of 2002, dated 06.04.2001 and 30.04.2002 respectively, in pursuance of the determination made under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (for short, 'the Act').

2. It is not in dispute that the Assistant Provident Fund Commissioner who is the Competent Authority under the Act passed an order under Section 7-A of the Act determining the provident fund dues alleged to be due from the petitioner for the period from 1/1989 to 7/2000. Thereafter, the petitioner filed an application under Section 7-B of the Act requesting to reopen the case under Section 7-A of the Act and review the order passed thereunder. The said Review application was dismissed by order dated 19-07-2004 thereby upholding the order dated 28-2-2001. Aggrieved by the same, the petitioner has preferred an Appeal under Section 7-I of the Act. While the said Appeal is pending, the impugned notice dated 1-3-2005 has been issued calling upon the petitioner to show-cause as to why warrant of arrest should not be issued in execution of the Recovery Certificate in pursuance of the determination made against the petitioner. The said notice dated 1-3-2005 is under

challenge in this writ petition on various grounds.

3. Admittedly, the petitioner has already preferred an appeal against the order passed by the Authority rejecting the Review Application filed by the petitioner under Section 7-B of the Act and the same is pending before the Tribunal. In the circumstances, the learned Standing Counsel appearing for the respondent at the outset raised an objection as to the maintainability of writ petition stating that since the impugned notice is only consequential to the determination already made, it would be appropriate for the petitioner to seek necessary directions from the Tribunal before whom the appeal is pending under Section 7-1 of the Act.

4. In the circumstances, the writ petition is disposed of granting leave and liberty to the petitioner to prefer an appropriate application in the Appeal pending before the Tribunal seeking stay of the impugned order dated 01.03.2005 within a period of two weeks from today. If any such application is filed, the same shall be considered and appropriate orders be passed in accordance with law by the Tribunal. Till such orders are passed, the impugned order shall not be given effect to and the respondent is directed not to take any coercive steps against the petitioner on the basis of the impugned order dated 01.03.2005.

5. The writ petition is accordingly disposed of. No costs.

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G. ROHINI, J

Dated: 24th March, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Recovery Officer, Employee's Provident Fund, APSFC

Building, Balasamudram, Hanamkonda,
Warangal-506 001.

2. 2 CD copies.

*Form-NIC-OGS/WP{**RS**}*